

**BEFORE THE IOWA BOARD OF NURSING HOME ADMINISTRATORS**

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IN THE MATTER OF:	)	CASE NO. 06-005
	)	
Melissa Larson	)	
License No. 02334	)	NOTICE OF HEARING
	)	AND STATEMENT OF CHARGES
RESPONDENT.	)	

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**COMES NOW** the Iowa Board of Nursing Home Administrators (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued Iowa license 02334 on July 25, 2006. Respondent's license is current and will next expire on December 31, 2009. Respondent's address as reported to the Board is 908 Howard Street, Scribner, NE 68057.

**A. TIME, PLACE AND NATURE OF HEARING**

Hearing. A disciplinary contested case hearing shall be held on January 21, 2010, before the Board of Nursing Home Administrators. The hearing shall begin at 9:00 a.m. and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Nursing Home Administrators, 5<sup>th</sup> Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Emily Kimes-Schwiesow, Assistant Attorney General, Iowa Attorney General's Office, 2<sup>nd</sup> Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file

with the Board office and serve upon all parties in the case.

## **B. LEGAL AUTHORITY AND JURISDICTION**

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 155, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 155, and 272C and 645 IAC chapter 144.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 645 IAC 11.21.

## **C. SECTIONS OF STATUTES AND RULES INVOLVED**

### **Count I**

Respondent is charged pursuant to Iowa Code sections 147.55(2) and 645 IAC 144.2(3) with professional incompetence, by demonstrating one or more of the following:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other nursing home administrators in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by a nursing home administrator acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed nursing home administrator in this state.

#### **D. FACTUAL CIRCUMSTANCES**

1. Respondent was employed as a nursing home administrator at a long term care facility between November 2005 and September 2006.

2. Respondent knowingly hired a director of nursing for the facility whose nursing license was under sanction. Respondent failed to put proper safeguards in place to assure the degree of care in the facility was maintained in light of the sanction.

3. Respondent failed to assure proper policies for safekeeping and handling of medications in the facility were in place and adhered to.

4. Respondent failed to report significant medication discrepancies to the facility's consulting pharmacist.

#### **E. SETTLEMENT**

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact Emily Kimes-Schwiesow, Assistant Attorney General, at 515.281.5637.

#### **F. PROBABLE CAUSE FINDING**

On this 15<sup>th</sup> day of October, 2009, the Iowa Board of Nursing Home Administrators found probable cause to file this Notice of Hearing and Statement of Charges.

**This notice of hearing and statement of charges is approved by the board on October 15, 2009.**